

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS (Boston)

3 No. 1:25-cv-10685-WGY

4
5 AMERICAN ASSOCIATION of UNIVERSITY PROFESSORS, et al,
6 Plaintiffs

7 vs.

8
9 MARCO RUBIO, in his official capacity as
10 Secretary of State, et al,
11 Defendants

12 *****

13
14 For Hearing Before:
Judge William G. Young

15
16 Final Pretrial

17 United States District Court
18 District of Massachusetts (Boston.)
19 One Courthouse Way
Boston, Massachusetts 02210
Thursday, June 26, 2025

20 *****

21
22 REPORTER: RICHARD H. ROMANOW, RPR
23 Official Court Reporter
24 United States District Court
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1 P R O C E E D I N G S

2 (Begins, 11:30 a.m.)

3 THE CLERK: The Court will hear Civil Action
4 Number 25-10685, the American Association of University
5 Professors, et al versus Marco Rubio, et al.

6 THE COURT: Good morning. Again I've allowed
7 internet access to this proceeding. That being so, it's
8 appropriate that I say that if you are viewing the
9 proceeding via the internet, you must keep your
10 microphone muted, the rules of court remain in full
11 force and effect, and that means there's no taping,
12 streaming, rebroadcast, screen shots, or other
13 transcription of these proceedings.

14 Rather than have everyone introduce themselves, so
15 that we may have a accurate record, when you speak for
16 the first time, would you again introduce yourself. But
17 otherwise it's not necessary to introduce yourself.

18 This is a final pretrial conference under Federal
19 Rule of Civil Procedure 16. Normally I conduct these
20 conferences in the lobby, um, but in the interests of
21 complete transparency, I believe that this conference
22 ought be conducted on the record. But I would hope that
23 we can have a relaxed interchange such that, if I say
24 something that's problematic, don't hesitate to, um,
25 point it to my attention and we'll try to work through

1 it.

2 Let me start by saying I welcome your efforts to
3 submit the joint pretrial memorandum, it's in the form
4 with which the Court is familiar, and addresses those
5 issues that are of most concern to the Court. It's, I
6 think, easiest to work from the back forward, and that's
7 how I'm going to proceed.

8 So, um, I don't have an exhibit list, I understand
9 that, and that's not a problem. Before we start, I want
10 one. And absent some surprise to the litigants that I
11 -- with which I concur, um, nothing more is going to be
12 proffered but what is proffered in that exhibit list.
13 Now sit down together and work it out. The exhibit list
14 should consist of the certified administrative record
15 and the other materials that either side wishes to place
16 before the Court.

17 The, um, -- those things that are not disputed,
18 and I would urge you not to -- well you're zealous
19 advocates, go ahead and dispute. But to the extent you
20 reasonably can agree that a document ought be in the
21 record, give it a number -- not a plaintiff's number or
22 a defendant's number, just give it a number. Numbers go
23 on to infinity.

24 Where there's any objection, give it a letter.
25 And once you've run out of letters, there's only 26,

1 start again AA, AB, AC, not AA, BB, CC. I once got up
2 to 8Qs, the Court Reporter couldn't follow it, it makes
3 for a lousy record.

4 When you object to the other side's proposed
5 exhibit, it is not necessary -- I really am trying to
6 keep the costs down here, to tell me, um, the grounds of
7 the objection, unless it's authenticity. If you think
8 the document is not an authentic document, or a
9 photograph or news report or whatever you think it may
10 be, it's not authentic, it's not what it purports to be,
11 call that out, because then I'll want the foundation
12 turned very square. But otherwise I'm going in assuming
13 that what's before me are authentic documents.

14 I've read this, and I hope with some care, I
15 understand the government's -- well the government has
16 reasons, for instance, um, to object to videos of the
17 taking into custody of Ms. Ozturk. I would hope that
18 that could be worked out, because it seems to me the
19 fact, whatever it is, is a fact.

20 And let me say as to things such as videos, um,
21 they -- they will be received in evidence, but I'm not
22 taking Court time to view them. Before I enter findings
23 and rulings, you will understand that I have viewed
24 them. Likewise depositions, I see you're taking
25 depositions, and that's fine, and maybe you want to

1 designate portions of those depositions. Just do so.
2 Again, see if you can't agree as to whether I may
3 receive the depositions in the record or not, and, um, I
4 will -- I will rule on those. And my practice is to
5 take the deposition -- this is jury-waived, and rule
6 right on the deposition with an "O" or an "S,"
7 "Overruled" or "Sustained," so the record, for any
8 appellate court, is clear what I have received at least
9 in evidence, or refused to receive. The, um -- but
10 we're not taking any time in open court to read
11 deposition testimony. I can read. And it's my duty to
12 have read these things.

13 Um, now let's work -- so that's what I expect on
14 exhibits, a single exhibit list marked as I've
15 designated.

16 MR. BIALE: Your Honor?

17 THE COURT: Yes?

18 MR. BIALE: Two quick questions.

19 THE COURT: That's why I'm doing this.

20 MR. BIALE: Okay, great. I'm Noam Biale for the
21 plaintiffs.

22 THE COURT: Yes.

23 MR. BIALE: The first question is about the
24 videos.

25 THE COURT: Yes.

1 MR. BIALE: So I anticipate we will seek to
2 introduce the video of Ms. Ozturk's arrest and
3 potentially the video of Mr. Khalil's arrest. I totally
4 understand that we don't need to play that in open
5 court. However, to the extent we want to ask our
6 witnesses whether they saw the video around the time
7 that it was released and what they thought about it,
8 would you like us to -- should we play it for them or
9 should we --

10 THE COURT: It depends upon their recollection.

11 MR. BIALE: Okay. Um --

12 THE COURT: This is a very well-equipped courtroom
13 and working with Ms. Belmont, if you have an AV person,
14 or persons, she can teach how the audio/visual in this
15 courtroom works. So again it's your case to try, but my
16 expectation is I would have made the ruling that a video
17 is admissible. Then if you think you need to refresh
18 your witness or point out some specific thing to a
19 witness, we can go right to that point in the video.

20 Does that answer your question?

21 MR. BIALE: It does. I mean I think there may be
22 witnesses who we want to say, you know, "Is Exhibit X
23 the video that you saw at the time?"

24 THE COURT: Right.

25 MR. BIALE: I think it's a fairly short video, so

1 we won't belabor the point. But understood.

2 THE COURT: It isn't a show, it's a trial, it's a
3 jury-waived trial, I take my duty very seriously, and I
4 want to be very clear as to what the record is.

5 So one other thing on exhibits. The government
6 has proffered, or I have in my hand some documents that
7 I understand the government takes the position that
8 these are, um, privileged under the law enforcement
9 privilege.

10 Right?

11 MR. KANELLIS: Yes, sir.

12 THE COURT: And I want to put on the record how
13 I'm going to deal with them and how I'm going to deal
14 with them at trial, while we're talking about exhibits.
15 I said I would honor that privilege, and I do, and I
16 would examine those materials in camera.

17 Now "in camera," in the operations of this Court,
18 means I'm the only one who's going to look at them, not
19 law clerks, no one else. And at least by the time we
20 get into this trial, I will have looked at them all, and
21 we've got them secure and will keep them secure.

22 If you refer to them, um, let's say in a 30,000
23 foot view, and say, there is no evidence of some
24 specific conduct, let's say, and you have every -- in
25 other words you're in control here, you can not refer to

1 them at all and, um, I anticipate that if I have to
2 then, I would give notice if it makes some difference to
3 the Court's determination. But if you say, in argument
4 or otherwise, there's no evidence of X, and within these
5 materials there is evidence of X, I feel it's perfectly
6 okay for me, at the same level of generality, either in
7 the written decision or in open court, to say, "Well,
8 yes, there is," but I won't go any further.

9 Does that -- is that helpful, is that -- I want to
10 give you that guidance.

11 MR. KANELLIS: That is somewhat helpful, your
12 Honor. I think the problem is --

13 THE COURT: Introduce yourself. I'm sorry.

14 MR. KANELLIS: Oh, my apologies. William Kanellis
15 for the United States -- well for the government
16 defendants.

17 THE COURT: Yes, Mr. Kanellis.

18 MR. KANELLIS: I think that is somewhat helpful,
19 but obviously the devil's in the details --

20 THE COURT: They always are in a trial.

21 MR. KANELLIS: -- um, and I think it would depend
22 upon not only the witness's answer given, but I would be
23 interested in understanding perhaps the reason why the
24 Court would disagree with the witness. But I don't
25 think that's going to be an issue.

1 THE COURT: I'm not saying -- the Court, at least
2 sitting here in open court, is not going to disagree
3 with the witness, it may be, upon reflection, I would
4 find the witness not credible, but I understand how to
5 do that.

6 MR. KANELIS: Of course.

7 THE COURT: I'm just not going to have, um, people
8 who refer conclusory to things -- privileges can't be
9 used as a sword and a shield, that's the general
10 proposition I'm following.

11 MR. KANELIS: Yes, your Honor.

12 THE COURT: If you're going to use it as a sword,
13 you're waiving the privilege, because you're saying,
14 "We've got evidence of this," and if we've got the
15 specific evidence, well you've waived it, and now we've
16 got the evidence, it is what it is, and we'll deal with
17 it. I've been in that -- I can't tell you any more than
18 that.

19 But that leads me -- I was working from the back,
20 but it leads me to -- in your witness list, which is
21 fine, you call certain people "summary witnesses." Let
22 me tell you what I think that means. That means that
23 where there are voluminous materials, a witness who has
24 gone over those materials summarizes them. The
25 underlying materials have to be made available to the

1 other side. But you're in agreement, so I don't have a
2 problem.

3 MR. KANELLIS: Yes, sir, we merely do what I've
4 done in other District Courts, 1006(6)(11)(a), we will
5 make available the underlying, um -- the underlying data
6 to the other side, they're welcome to question the
7 witness --

8 THE COURT: And that's satisfactory to the Court.

9 MR. KANELLIS: Thank you, your Honor.

10 THE COURT: Perfectly satisfactory. And that's
11 what I thought you meant when you said a "summary list."

12 MR. KANELLIS: Your Honor, while I'm standing, I
13 do have a follow-up question.

14 THE COURT: Go ahead.

15 MR. KANELLIS: So in other trials we usually --
16 obviously we want to inform the Court with respect to
17 exhibits that everybody can agree on. Oftentimes though
18 we can't anticipate, Number 1, documents we will need to
19 refresh a witness's recollection or, Number 2, documents
20 needed to impeach a particular witness, if something
21 goes in a way we don't expect.

22 THE COURT: That's what I meant by "surprise."

23 MR. KANELLIS: I'm anticipating, your Honor, that
24 you don't expect us to name every potential document
25 that we -- that's fair game, but we can't introduce them

1 --

2 THE COURT: It's fair game but they better fit
3 into one of those boxes.

4 MR. KANELIS: Um, just -- which boxes?

5 THE COURT: Refreshing the witness or impeaching
6 him.

7 MR. KANELIS: Of course. Of course. I just
8 wanted to make sure that we don't have to present 1,000
9 exhibits --

10 THE COURT: You don't have to present impeaching
11 evidence, though -- you've tried cases. I don't want,
12 and will not accept, end runs around my orders. I want
13 to have an exhibit list and have it work.

14 MR. KANELIS: Yes.

15 THE COURT: I understand what impeachment is.

16 All right. Now let's talk timing now.

17 MR. BIALE: Sorry, your Honor, and I apologize for

18 --

19 THE COURT: No apology is necessary.

20 MR. BIALE: Okay, I withdraw the apology.

21 (Laughter.)

22 MR. BIALE: When would you like the exhibit list,
23 your Honor, the joint exhibit list?

24 THE COURT: The morning of trial.

25 MR. BIALE: Okay, perfect.

1 And then the second question I have is, um, you
2 know I'd like to -- and we may get into this later, as
3 we reference in our motion to compel, but we've received
4 a very small number of documents from the government and
5 your Honor has received some additional documents.
6 They're not -- they're certainly not so voluminous that
7 --

8 THE COURT: Let's --

9 MR. BIALE: Well I just want to ask with respect
10 to if they're calling summary witnesses to summarize the
11 data that Mr. Kanellis was just talking about, it would
12 be helpful to when we are going to receive that data so
13 we can prepare to cross-examine those witnesses?

14 MR. KANELLIS: The rule states, your Honor, within
15 a reasonable time.

16 THE COURT: What do you think is a reasonable
17 time?

18 MR. KANELLIS: I think sometime next week.

19 THE COURT: I think that's true. Before the
20 holiday.

21 MR. BIALE: Thank you, Judge.

22 THE COURT: All right.

23 The time for the trial. The defense has estimated
24 it's going to take 2 weeks. I'm prepared to give 9
25 days. I have a doctor's appointment on the 16th. I sit

1 from 9:00 in the morning till 1:00 in the afternoon.
2 Yes, there will be opening -- or maybe opening
3 statements no longer than 15 minutes a side. There may
4 be closing arguments, no longer than 1 half hour per
5 side. I would appreciate, at least by the close of the
6 trial, proposed findings and rulings.

7 I understand that the plaintiffs are --
8 Ms. Belmont said you've got some problem with the second
9 week of trial?

10 MR. BIALE: Yes, your Honor, so there's a couple
11 of issues.

12 One is, um, so I have a conflict the 14th, 15th,
13 and 16th that will require me to be in New York.

14 THE COURT: Well I'm looking at this battalion of
15 lawyers here.

16 MR. BIALE: I thought that you might say that,
17 your Honor, so let me quickly get to the other issue,
18 which is, um, we do have now, that the government has
19 identified for us, um, 12 witnesses, only two of which
20 we've had an opportunity to depose, and time is short
21 between now and the trial. We have 6 depositions, um,
22 both offensive and defensive, scheduled in the six
23 business days remaining before the trial. It would be
24 helpful to us certainly to have a brief pause where we
25 could depose these additional witnesses that the

1 government has noticed.

2 THE COURT: Look -- look, when I collapsed your
3 motion for a preliminary injunction with trial on the
4 merits, the urgency with which you supported a
5 preliminary injunction was not lost on the Court and I
6 have followed the schedule that you people have adopted.
7 You asked that the trial start on the 7th. I'm ready to
8 have the trial start on the 7th.

9 Now this case is going to require a written
10 opinion. I take some time in August. The truth is,
11 because I'll move other things, I have for trial between
12 the 7th of July and the 31st of July. So I know I'm not
13 going to be here on the 30th of July. If you're content
14 to wait until sometime in September for an order --
15 remember we're only talking liability in this phase, so
16 maybe the full opinion need not come out. But as I
17 looked at this case, I thought that if we could get it
18 done in the first two weeks -- 9 days, not 10 -- but if
19 you're all here at 9:00, then we will certainly start on
20 the dot of 9:00, and then there might well be at least
21 an order, conclusory perhaps, in July. One would think
22 you'd want that.

23 But if you don't, and you want to say, "Well let's
24 go to the next week, the 21st, we'll take a pause," then
25 you can take depositions. I've had people call my

1 bluff, when I collapsed it with trial on the merits, and
2 the other side said, "Well we need depositions," and I
3 say "There isn't a constitutional right to depositions."
4 Put out subpoenas. Trial's work. People focus.

5 You tell me. What do you want to do?

6 MR. BIALE: I think I'm going to listen to what
7 the Court said and I'm going to sit down.

8 THE COURT: All right.
9 Counsel?

10 MR. KANELIS: Just a couple of comments, your
11 Honor.

12 We have endeavored to bring witnesses who have,
13 um, they have national security concerns they're dealing
14 with on a daily basis, and they've set aside this time,
15 and we've made them at great cost, um, okay --

16 THE COURT: Respectfully I'm under the gun too. I
17 accept that absolutely as you state it, and we'll hear
18 it.

19 MR. KANELIS: And let me add this. Look,
20 depositions, that's a nice thing to have. We don't need
21 them. You Honor tries cases every day where there are
22 no depositions. We understand we may have to go to
23 trial where witnesses have not been deposed. Those are
24 the breaks.

25 THE COURT: I'm sure you do. All right, now let's

1 see.

2 So it's 9 days of trial. I'm keeping time. It
3 includes the openings and closings. And working back,
4 um, well some of these objections we can deal with. I
5 guess now is the time to work through these issues, some
6 I can handle, some I can't.

7 MR. KANWIT: Your Honor, I apologize, one final
8 question?

9 THE COURT: Yes.

10 MR. KANELLIS: Closing arguments. Do you expect
11 closing arguments at the very close -- which is fine, as
12 soon as the last witness has taken the stand, we have a
13 30-minute closing?

14 THE COURT: Well usually I take a recess, but,
15 yes.

16 MR. KANELLIS: Thank you, your Honor.

17 THE COURT: I mean the truth is that I expect this
18 to go faster than we've estimated. I would have given
19 you the 10 days, but I have to take the 16th.

20 It's always, um, an appropriate correction for
21 judges, who can set their own schedules, to be at the
22 mercy of doctors who set theirs. (Laughter.) So I have
23 to do it, um, not sit on the 16th. 9 days will do it.
24 But it may well go faster than that, um, and the like.

25 So let me deal with the outstanding matters to the

1 extent that I can, and I'll try to refer, because your
2 joint memorandum has been very helpful. All right,
3 questions really raised by pending motions.

4 The plaintiffs have filed motions pending with the
5 Court, motions to compel. The first one is under
6 advisement. I'll rule on it.

7 Remote testimony? Now, look, since we're going
8 two weeks, they'll even put them in on the second week,
9 can't you?

10 MR. BIALE: So, yes, your Honor. As to two of
11 them there's one that we would not be able to put on --

12 THE COURT: Where's he or she?

13 MR. BIALE: She is the one who is in Beirut, so
14 it's most difficult for her to travel. So we'd ask just
15 to have that one --

16 THE COURT: Who is she? Just so I know.

17 MR. BIALE: Sure. So her name is Nadia Abu
18 El-Haj, she's a professor at Barnard College, Columbia
19 University. She's an AAUP member.

20 THE COURT: You may call her remote.

21 MR. BIALE: Thank you, Judge.

22 THE COURT: And all the arrangements are on you,
23 there's time-zone differences and the like.

24 MR. BIALE: Okay.

25 And just to preview for the Court the two other

1 witnesses who we mentioned in the, um, motion for remote
2 testimony, they will certainly be able to testify by
3 Friday the 18th. It may be difficult to get them to do
4 it earlier, but that is within the two weeks that --

5 THE COURT: Well it's not like you get one week
6 and they get another week, it's -- the cross-examination
7 comes out of your time. I mean you're not taking up
8 five full days.

9 MR. BIALE: Understood, your Honor.

10 THE COURT: All right. Okay.

11 MR. KANELIS: Your Honor, before you move on to
12 the next, if you're going to allow remote testimony,
13 we'd ask that all our witnesses be available. We have
14 one witness who is moving to pursue an attache position
15 in London. If you're going to allow remote testimony,
16 we would ask that that witness be allowed to testify
17 from London on, um --

18 THE COURT: Well work it out with them when, but
19 fair is fair and you may.

20 MR. KANELIS: It's the second Tuesday, the
21 Tuesday of the second week.

22 MR. BIALE: We have no objection to that, your
23 Honor.

24 THE COURT: Fine. That's done.

25 All right. "Preclude the defendants

1 from questions as to the identities of" -- um, these
2 issues come up during the course of the trial. I -- I
3 don't decide that in limine, I'm not going to preclude
4 anything. We'll see.

5 "Permit witnesses to testify about" -- that's an
6 evidentiary ruling, I'll make evidentiary rulings when I
7 have to.

8 "Draw certain adverse inferences" -- well at the
9 trial, we'll see how the trial goes.

10 The defense. "Reconsideration of the Court's
11 order entering a protective order." In one respect, um,
12 the motion is allowed, the, um -- the, um -- I've
13 allowed this, um, a record to be made of the people that
14 look at the information. It's without limit of time.
15 It's with a limit of 5 years following the close of the
16 trial. In all other respects, the protective order
17 remains as the Court has, um, ruled on it.

18 "Exclude evidence based on" --

19 MS. SANTORA: Your Honor?

20 THE COURT: Yes?

21 MS. SANTORA: This is Victoria Santora for the
22 government, may it please the Court.

23 THE COURT: Yes.

24 MS. SANTORA: I do have a question about, um, the
25 ruling that you just issued on the protective order.

1 THE COURT: Yes.

2 MS. SANTORA: Plaintiffs gave their response to
3 our motion for reconsideration and suggested amendments
4 to the paragraph you were just referring to.

5 THE COURT: If you work it out, you work it out.
6 Give them to me. But those are the Court's orders.

7 MS. SANTORA: Yes, okay, thank you, your Honor.

8 THE COURT: "Exclude evidence based upon, um, not
9 retrying other immigration or judicial proceedings."
10 The breathe here -- and I'm on Page 9, Subparagraph ii,
11 is to more. I'm not going to make any findings of fact
12 in anybody else's case, whether the case is wholly
13 administrative or whether it's pending in some other
14 court. But we're certainly going to take evidence with
15 respect to what was known about what's going on in those
16 cases. So I'm going to allow that.

17 This business about Veena Dubal, waiving the
18 attorney-client privilege. I'm sensitive to that. If
19 she's going to testify about communications -- and maybe
20 the government, um -- the defendants will allow that and
21 then turn around in cross-examination and say, "Well
22 you've waived it," there might be something to that.

23 The last point is about, um, additional documents.

24 MR. KANELIS: Your Honor, I'm sorry -- I'm sorry
25 to keep interrupting, but on the, um --

1 THE COURT: It's not interrupting, I'm just
2 precluding argument, but not interrupting.

3 Go ahead.

4 MR. KANELIS: This issue cannot wait until trial
5 and here's why.

6 Ms. Dubal is testifying strictly in the capacity
7 as General Counsel for AAUP, yet, she is testifying as a
8 fact witness. That's unusual, yes. But we need a
9 ruling from the Court prior to trial because they've
10 been withholding documents on the basis of a privilege
11 that we need to see in advance of trial. It's not
12 something that we can wait until she testifies and I
13 make an objection. We need to see those records.

14 THE COURT: I've made my ruling. We'll start the
15 trial. You won't be disadvantaged insofar as the, um,
16 exercise of the attorney-client privilege. We'll have
17 to see how it works out.

18 You should understand that I come from a state
19 court system where, um, it, um, allows the drawing of a
20 -- the state court system, that's where I learned how to
21 be a judge, which allows the drawing of an adverse
22 inference from the assertion of an attorney-client
23 privilege. Just have that in mind. I've made my
24 ruling.

25 MR. BIALE: Your Honor, can I just briefly, for

1 the record --

2 THE COURT: You know --

3 MR. BIALE: Okay.

4 THE COURT: And I don't mean to be brusque, but
5 you know when you tell me "for the record," you're
6 trying to convince me. There are higher courts. You
7 may get to them.

8 All right, let's see here. I'll see that everyone
9 has an adequate record.

10 All right, discovery.

11 Now that, um, that takes care of what I, um,
12 wanted to do in this Rule 16 conference. I have some,
13 um, comments that I think are appropriate as we go into
14 this case, and then I'll stop and take questions briefly
15 because I do want to call you to the sidebar before we
16 conclude. So let me make these comments.

17 Much has been made of the term "antisemitism" in
18 government-issued documents. A concern to minimize,
19 ameliorate antisemitism is -- antisemitism now, standing
20 alone, without the adjective "violent" antisemitism or
21 the like, but the government has a legitimate concern
22 trying to ameliorate antisemitism as it has an equally-
23 legitimate concern to ameliorate islamophobia, or any
24 other sectarian, um, expression of hate.

25 I take antisemitism to be the expression of hate

1 or dislike to a person or a group of people based upon
2 their faith, their Jewish faith, or -- or and, perhaps
3 an ethnicity based upon national origin or some
4 geographic position. And it is the legitimate purpose
5 of government to seek to minimize that -- and again I'll
6 say islamophobia or any sectarian disapproval, um, based
7 upon race or faith or lack of faith.

8 But none of that, as I understand the law, and as
9 I understand the First Amendment, none of that is
10 illegal. A simple expression, however -- however
11 uncomfortable, however repugnant, that's not against the
12 law, nor can it be in, um, a society dedicated, as our
13 society is, to the First Amendment. And having said
14 that, um, statements concerning the policies of the
15 State of Israel are political expression and are among
16 the most protected statements under the First Amendment.

17 Now I fully recognize, going in, that these are
18 not, um -- there's not a firm line here, expression can
19 turn into, um, threats, which at a certain level of
20 extremity are properly, um -- and going back to Holmes,
21 that you cannot "cry fire in a crowded theater." I
22 understand the lines are blurred. But it's appropriate
23 to say that.

24 Political expression is, um, it seems to this
25 Court, truly protected under the First Amendment, no

1 matter how uncomfortable, no matter how disfavored by
2 the government. Whereas pure speech, hostile to one's
3 faith or the lack of faith, is I think inconsistent with
4 American values, but it is not the subject of our
5 criminal laws.

6 Now I've talked enough. A few moments for your
7 questions and then I do want to see you at the sidebar.
8 And we'll start with the plaintiffs.

9 Any questions about what I've said or taken under
10 advisement?

11 MR. BIALE: No, your Honor, thank you.

12 THE COURT: All right.

13 And, sir?

14 MR. KANELIS: I do have a question to an issue
15 that relates to -- actually partly to the plaintiffs'
16 earlier motion.

17 We have, um, an ample audience here and in high-
18 profile trials I've been involved with in the past,
19 there have been concerns, as there are in this case,
20 regarding the, um, I guess prophylactic measures taken
21 to protect the identify of witnesses. We've explained
22 that some of our agents have been, um, in other
23 litigation have been the subject of doxxing, agents have
24 been attacked. Likewise your Honor has -- and we agree,
25 we think it's appropriate to protect the identify of

1 witnesses so that their identities don't prevent fulsome
2 and honest testimony.

3 My question, or actually my recommendation to the
4 Court, is in other trials that I've been in, that
5 sometimes we allow the anonymization of witnesses by
6 using pseudonyms, like "Agent A" or "Ms.", and using
7 somebody's initials, in lieu of their real names, so
8 that, um -- to protect the witnesses from both parties
9 from being doxxed and that sort of thing.

10 THE COURT: See if you can work it out. And to
11 the extent you can work it out, the Court, um, will be
12 supportive of it, pretty clearly. But I need to be
13 clear on who is who, in other words tying it, the record
14 all together, because I have a separate duty. But so
15 long as I know what we're doing, that should not be a
16 problem. But no one is going to be in this courtroom
17 masked or otherwise concealed from a public courtroom.
18 The law is pretty clear on that. But your suggestion is
19 not a bad suggestion. See if you can work it out.

20 MR. KANELIS: Fair enough, your Honor. And one
21 last concern.

22 Your Honor last week, last Wednesday, I believe,
23 issued an order regarding the identify of the opposing
24 party's witnesses. We still do not have discovery from
25 the plaintiffs that we've requested even though they

1 have this order in their possession, and the clock's
2 ticking.

3 THE COURT: I understand.

4 MR. KANELIS: So I would ask that --

5 THE COURT: I'm only going to rule on motions, and
6 the motions I have, I've ruled on them.

7 All right, let's go off the record. Come up to
8 the sidebar.

9 (Sidebar, off the record.)

10 THE COURT: And we'll recess.

11 THE CLERK: All rise.

12 (Ends, 12:30 p.m.)

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C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER, do hereby certify that the forgoing transcript of the record is a true and accurate transcription of my stenographic notes, before Judge William G. Young, on Thursday, June 26, 2025, to the best of my skill and ability.

/s/ Richard H. Romanow 06-27-25

RICHARD H. ROMANOW Date